**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE KURIAN JOSEPH**
**&**
**THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID**

**MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929**

**LA.App.No. 1372 of 2007**
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**LAR.90/2001 of SUB COURT, KASARAGOD**
**.....**

**APPELLANTS/ RESPONDENTS:**
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1. **STATE OF KERALA REPRESENTED BY SPECIAL TAHSILDAR,(LAND ACQUISITION)RAILWAY,KASARGOD.**

2. **THE DISTRICT COLLECTOR, KASARGOD.**

**BY GOVERNMENT PLEADER SMT. LATHA THANKAPPAN.**

**RESPONDENTS/ CLAIMANTS:**
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1. **R. KRISHNAN, S/O. RAMAN, CHEMBARIKA, KALNAD VILLAGE,KASARGOD.**

2. **THE DEPUTY CHIEF ENGINEER (CONSTRUCTION) SOUTHERN RAILWAY, KANNUR.**

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 12/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**KURIAN JOSEPH & HARUN-UL-RASHID, JJ.**

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**L.A.A. NO. 1372 OF 2007**

**&**

**C.M. Appl. No. 1593 OF 2007**

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**Dated this the 12th day of November, 2007.**

**J U D G M E N T**

**Kurian Joseph, J.**

**C.M. Appl. No. 1593/2007**

This is a petition to condone the delay of 908 days in filing the appeal. On merits it is seen that the appeal is filed against the judgment and decree in L.A.R. No. 90/2001 on the file of the Sub Court, Kasaragod. Acquisition is for the purpose of doubling of railway track from Thalappady to Trikarippur.

2. The enhancement is only at the rate of 40% over and above the land value fixed by the Land Acquisition Officer. Such enhancement is made based on the finding that the basic land and the acquired land are not similar and similarly situated and in view of the report of the Advocate Commissioner regarding the potentiality of the acquired land. It was found that the acquired land is a flat dry land.

In view of the evidence thus available on record, the enhancement at the rate of 40% cannot in any way held to be excessive. Thus there is no merit in the appeal. Therefore, the application for condonation of delay and the appeal are dismissed.

**KURIAN JOSEPH**
**JUDGE**

**HARUN-UL-RASHID**
**JUDGE**

smp